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March 29, 2007.

VIA ELECTRONIC FILING

Hon. James Orenstein
U.S. Magistrate Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11210

RE: 3801 Beach Channel, Inc., et. al. vs.
Schvartzman, et. al.

Docket #: 05-cv-207 (CBA)

Dear Honorable Sir:

This letter is to inform the Court that Defendants and their attorney failed to comply with the most recent Court Order, and continue to willfully disregard and disrespect well established legal principals as well as this Court's authority. As such, as per the recommendation of Your Honor and on the behalf of all Plaintiffs, I pray that this Court stop this contemptuous behavior and recommend just and proper relief to the Plaintiffs in the form of striking the Defendants' answer in its entirety and entering a default judgment in favor of the Plaintiffs on all counts.

As per this Court's Order, entered on March 21, 2007, Your Honor imposed sanctions on the Defendants for their actions and ordered full compliance with the prior Orders obligating the Defendants to provide all outstanding discovery material by March 28, 2007. In the same Order, Your Honor specifically stated in Section II, Paragraph 3, that "if they do not comply in full with this last and final attempt to secure compliance with their discovery obligations, I will conclude that they are willfully defying a court order, that they have no interest in resolving this case on the merits. In that event, the only sufficient sanctions - which I will recommend - will be to strike the defendants' answer and enter a default judgment against them."

From the date of the above Order through March 28, 2007, I did not receive any communications from the Defendants or their attorney regarding this Order. No discovery materials were received by my office. On March 28, at 4:36pm, I received a facsimile transmission from Defendants' counsel addressed to this Court informing briefly, in merely three sentences, that Defendant, Mr. Shvartzman, is out of the country and will return on April 5, 2007, and further asking this Court to adjourn the compliance conference scheduled for April 5th, 2007 to April 13th, 2007. The letter goes further to request that compliance with discovery, which has been sought by the Plaintiffs since September 7, 2005, and ordered by this Court since December 22, 2006, be also stayed until April 13th so that documents, "if any are available", can be produced at that time. This letter is not supported by any exhibits such as travel arrangement receipts, airplane tickets, or reservations to further validate this proposed excuse for non-compliance. It is further unclear why the co-defendants could not arrange for the production of discovery by Court Ordered deadline, or why such arrangements were not duly made by Mr. Shvartzman prior to his alleged departure since all Defendants were well aware of the pending motion and Court Orders. As such, I beg this Court not to be deceived and view

this feat as yet another delay tool purported by the Defendants. Plaintiffs hereby expressly object to such an adjournment.

This behavior by the Defendants and their attorney can only be explained by the assessment made by Your Honor in his latest decision. It is abundantly clear that Defendants and their counsel are poised to abuse the judicial system by using every excuse, delay tactic, and stalling technique to deny Plaintiffs due access to information and hinder the litigation of this matter on its merits. It is also now clear that in their quest to avoid the swift prosecution of this matter, Defendants do not even hesitate to disrespect this Court's Orders and push the limits of the Court's good faith and flexibility. This latest conduct of faxing a mere three sentence letter in the late afternoon on the date of ordered compliance with a flimsy and unfounded excuse, while facing a warning from this Court so severe such as a default judgment, signals that Defendants are not concerned about the decisions of this Court, and feel that they are above its jurisdiction and authority. It further demonstrates that their defense of this matter is frivolous as it is only structured to utilize stalling and roadblock tactics to wear out the Plaintiffs financially and emotionally.

While discovery remains outstanding, Plaintiffs stand prejudiced, unable to conduct depositions, and pursue their just cause. Moreover, this Court's multiple orders continue to be disobeyed, and Defendants continue to evade justice. The current state of this matter and its history is contrary to the established judicial principles of this well respected Court of the Eastern Federal District and action must be taken to remedy this position immediately.

Accordingly, the undersigned, on the behalf of all Plaintiffs, respectfully requests that this Court follow its earlier Order by issuing its recommendation to strike Defendants' answer in its entirety and entering a default judgment on all counts in favor of the Plaintiffs with any and all other remedies this Court deems to be just and proper. Plaintiffs stand ready to submit a full brief and appropriate motion regarding this action, if this Court deems it necessary to do so procedurally. If such a brief, motion, or any other action is required on the behalf of the Plaintiffs to properly obtain the above requested relief, I ask that this Court kindly advise the undersigned at its earliest convenience.

Thank you for your assistance and intervention.

Sincerely,

A handwritten signature in cursive script, reading "Val Kleyman", written in black ink on a white background.

Val Kleyman, Esq.

CC: Stephen Pergolizzi, Esq.
VIA FACSIMILE TO 718-627-1082
& PRIORITY MAIL